

OUT-OF-STATE SUBPOENA PROCEDURE – MILWAUKEE COUNTY

You **MUST** follow these instructions in order to have a Wisconsin resident subpoenaed.

References to “circuit court judge” refer to the Chief Judge of Milwaukee County, or any Circuit Court judge in the State of Wisconsin, most preferably one within the county where the witness resides.

1. **Commission:** A commission must be issued by the out-of-state court of jurisdiction to the circuit court judge or Chief Judge (Milwaukee County). Typically, the attorney taking the deposition petitions his or her court or judge to issue a commission to our judge in the county of the witness's residence thereby empowering him or her to issue a subpoena for the witness's appearance. The document should state the parties, who they are, and that the witness is necessary for the case to proceed.
2. **Petition for Issuance of Subpoena:** This is a request for the circuit court judge or Chief Judge to issue a subpoena, authorized by the above commission. The petition should contain reference to your state's statutes regarding deposition testimony reciprocal with Wisconsin Statutes 887.24, 887.25 and 887.26. An attachment of your state statute as well as a certified copy of the Commission and Order for Commission is required.
3. **Order for Issuance of Subpoena:** This is the document prepared by the petitioning attorney and presented to the circuit court judge or Chief Judge for his or her signature, thereby ordering the issuance of the subpoena. Any additional request for production of records or *duces tecum* is to be included in the **subpoena** itself, not this document.
4. **Subpoena:** [§ 885.02(2)] This is the actual subpoena which is then presented to the process server for service on the witness. This document may contain requests for records production or *duces tecum* [§ 885.02(2)]. You may use Wisconsin Circuit Court form GF-126. If the Wisconsin Circuit Court form is used an attorney licensed to practice in Wisconsin or the Chief Judge or Clerk of Circuit Court must sign the subpoena. You may submit any other acceptable subpoena drafted by you and used in your jurisdiction but it must be signed by the Court in the foreign jurisdiction.
5. **Submit Subpoena:** Send all four documents (original plus two copies) to the circuit court judge's office. Please include a self-addressed, stamped envelope for return of the signed copies.
 - a. **Milwaukee County:** Arrange for local counsel or a process server to deliver all four of the above documents (original plus two copies). At that point, a case file will be opened in Milwaukee County. Counsel or process server will next be directed to the Chief Judge's office, with the Circuit Court file, for the required signatures.
6. **Arrange Witness Payment:** After accomplishing the above steps, make out a check payable to the witness for \$5.00 [regular deposition, § 814.67(1)(a)1] or \$16.00 [video/evidentiary deposition or court appearance, § 814.67(1)(am)] plus .20/mile [§814.67(1)(c)] for the round trip for the witness to the deposition site or circuit court.
 - a. **Fees:** Check rates in the county where the witness resides.



This document was created by
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